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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/427,260	10/25/1999	FARHAD KHOSRAVI	S63.2-13525-US01	2937

490 7590 04/17/2008
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EXAMINER

PELLEGRINO, BRIAN E

ART UNIT	PAPER NUMBER
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3738

MAIL DATE	DELIVERY MODE
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04/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/427,260	Applicant(s) KHOSRAVI ET AL.	
	Examiner Brian E. Pellegrino	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29,30,55,56,59,60 and 62-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) 29,30,55,56,59,60 and 62-66 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/25/08 has been entered.

Priority

The disclosure of the prior-filed application, Application No. 09/192,977 fails to provide support for claims 29,55,59 and its dependent claims regarding the feature of the cells having wing-like elements of this application. Thus, the effective priority date is 10/25/1999.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the limitation that the "wing-like elements are curvilinear and have at least three turns between a first and second end" was not found in the written disclosure. Additionally, the limitation that there are second cells with a second area

being greater than the first area of cells was not found in the written disclosure. It is also noted that the second cells of four different stretchable elements as recited in claims 59,66 was not described in the written disclosure. If Applicant intends that the space below the first row of longitudinal elements forming the first area of cells is what Applicant is intending to claim as the second area of cells, then it is noted that the area shares longitudinal members and thus cannot have four different stretchable elements.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 29,30,55,56,59,60,62-66 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 29,55,59 the new limitation that the stent has wing-like elements comprising first and second longitudinal elements with at least three turns between the first end and second end of each longitudinal element. According to the drawings, it appears that the longitudinal elements only have three turns, thus the limitation of "at least" encompasses more than three of which was not disclosed. This is new matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29,30,55,56,59,60,62-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (2001/47200) in view of Khosravi et al. (5824054). Figs. 15A,B show a stent formed of a plurality of stretchable elements defining a plurality of cells **22**. It can be seen that there are first and second wing-like elements extending generally parallel to the longitudinal axis and are connected to an adjacent longitudinal wing-like element at looped ends. It can also be seen there are a plurality of peripheral connectors intermediate two longitudinal members as seen in Fig. 15A. White discloses the stent is made of shape memory material such that it is plastically deformable, (paragraphs 59,63) and thus is unstretched at 25°C and expands at body temperature. White also shows (Fig. 10) the stents can have cells such that they have longitudinal elements that are curvilinear and have at



Art Unit: 3738

The Examiner interprets point to point as ends of a longitudinal member. With respect to claims 59,66 White illustrates (Fig. 8) that the stent pattern can include cells with different areas. Figs. 16,17 show different patterns can be combined. Regarding claim 64, it can be seen that from Figs. 15A and 15B that the number of turns in a longitudinal element remain the same from unexpanded to the expanded state. With respect to claim 65, it can also be seen that every stretchable element is connected to two different peripheral connectors on opposing sides.

However, White et al. do not disclose the stent is formed of a coiled sheet or include locking elements. Khosravi et al. show (Fig. 6) a sheet stent **50** having a plurality of locking elements **51** capable of being engaged in openings in the stent when coiling the stent. Khosravi additionally teaches the stent pattern used should accommodate its intended use, col. 3, lines 35-41. It would have been obvious to one of ordinary skill in the art to use a coiled sheet to form the stent and include locking elements as taught by Khosravi et al. in the stent of White et al. such that it prevents collapse.

Response to Arguments

Applicant's arguments with respect to claims 29,55,59 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Pellegrino whose telephone number is 571-272-4756. The examiner can normally be reached on M- F (9am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TC 3700
/Brian E Pellegrino/
Primary Examiner, Art Unit 3738